

OFFICE OF POLICY AND LEGAL ANALYSIS

To: Members, Joint Standing Committee on Agriculture, Conservation and Forestry
From: Karen S. Nadeau, Legislative Analyst
Date: April 20, 2021
Subj: **LD 1159** An Act To Amend the Membership Requirements of the Board of Pesticides Control

- Amends the membership requirements of the Department of Agriculture, Conservation and Forestry, Board of Pesticides Control pertaining to the 2 public members to return them to the requirements that existed before Public Law 2011, chapter 119.

TESTIMONY

Proponents: *Maine Organic Gardeners and Farmers Association; written only: Portland Protectors; Resident of Arrowsic (former public information officer for BPC); Resident of Cumberland*

- The removal of “a demonstrated interest in environmental protection” and “represent different geographic areas of the State” has undermined the core mission of the Board.
- Suggest amendment to include a restriction on conflict of interest for public members on the Board.
- Adding a restriction on conflict of interest for the public members of BPC would align with requirements for many boards and commissions of Maine State government.
- Concern about pesticides exposure and diminishing faith in the State’s ability to promote healthier land care practices have prompted 31 municipalities to adopt local pesticide use and sales ordinances.
- Suggested amendment to restore the University of Maine member to be an agronomist or entomologist. Current university member, who has served on the Board for about 25 years, is an agronomist and has been a major and essential presence; this requirement should not be lost.
- What is missing from the Board are members to represent the public perspective and concerns about pesticides and their effects on human health and the environment, one of the reasons the Board came into being in the first place.

Opponents: *Maine Farm Bureau; Maine Forest Products Council; written only: Portland Country Club; Mainely Grass; Agricultural Council of Maine*

- MFPC opposed LD 1159 because the composition of the Board relies on technical and practical experience in the area of pesticides uses.
- Members of the ACF Committee of the 129th Legislature recognized that residential home use of pesticides was identified as a gap in the set of 7 members of the Board. Therefore, the majority report added the requirement that the 2 public members have practical experience and knowledge of methods of sustainable management in indoor and outdoor pests.
- If there are objections to certain individuals that are appointed by the Governor and approved by the ACF Committee to serve on the Board, the full Senate must also agree through confirmation of the appointee before that person is seated on BPC.
- A reconstitution of the Board with the objective of specifically changing the outcome of the Board’s deliberations is more likely to create an imbalance in the make-up of the Board rather than solving a perceived problem.

NFNA: *Department of Agriculture, Conservation and Forestry; written only: New England Pest Management Association*

- Current Board is comprised of 7 members appointed by the Governor to serve 4-year terms.

- Day-to-day activities are carried out by staff of 10 full-time and 4 seasonal employees who are housed in the Bureau of Agriculture, Food and Rural Resources, Division of Animal and Plant Health.
- Because the Board functioned successfully and capably utilizing that previous definition – just as it functions successfully and capably today under the current definition – we do not foresee a concern with reverting to the prior definition.
- NEPMA strongly urge the ACF Committee to maintain an expert in sustainable pest management on the Board.

Current law (22 MRSA §1471-B, sub§2)

7 members, appointed by the Governor, subject to approval of ACF Committee and confirmation of the Senate

- 1 person with practical experience and knowledge regarding agricultural use of chemicals
- 1 person with practical experience and knowledge regarding the use of chemicals in forest management
- 1 person from the medical community
- A scientist from the University of Maine System having practical experience and expertise in integrated pest management
- 1 commercial applicator
- 2 persons appointed to represent the public
 - One of the members appointed to represent the public must have practical experience and knowledge of methods of sustainable management of indoor or outdoor pests

LEGISLATIVE HISTORY

PL 2019, c. 192 (LD 36 from the 129th Legislature)

- Struck “The 2 members of the public must represent different geographic regions of the State.”
- Added “One of the members of appointed to represent the public must have practical experience and knowledge of methods of sustainable management of indoor or outdoor pests.”

LD 36 original bill –

- Proposed to restore the requirement that 2 public members of the Board have a demonstrated interest in environmental protection.

PL 2011, c. 119 (LD 321 from the 125th Legislature)

- Regarding the scientists from the University of Maine System – it deleted “specializing in agronomy or entomology” before phrase “having practical experience” and changed “knowledge of” to “expertise in” integrated pest management.
- Regarding the 2 members appointed to represent the public - it deleted after must “have a demonstrated interest in environmental protection.”

LD 321 original bill –

- Expanded the specialty areas in which the scientist member of the BPC may specialize – added plant pathology to agronomy or entomology.
- Proposed to change the law so that one member appointed to represent the public must have demonstrated interest in environmental protection (instead of two).
- Proposed to add “one member appointed to represent the public must have practical experience and knowledge of pesticide use in ornamental horticulture and urban landscapes.”

RELATED LEGISLATION – 130th Legislature

LD 1158 – section 2 of the bill directs the Commissioner of ACF to convene a working group to review the composition of the Board of Pesticides Control with respect to whether the board equitably represents the public, environmental and industry interests and to identify whether the service of any of the board members gives the appearance of a financial conflict of interest.

RELEVANT STATUTES

Title 22, section 1471-B

1. Board established. The Board of Pesticides Control is established by Title 5, section 12004-D, subsection 3, within the Department of Agriculture, Conservation and Forestry. Except as provided in this chapter, the board must be composed of 7 members, appointed by the Governor, subject to approval by the joint standing committee of the Legislature having jurisdiction over agricultural matters and confirmation by the Senate. To provide the knowledge and experience necessary for carrying out the duties of the board, the board must consist of the following members: one person with practical experience and knowledge regarding the agricultural use of chemicals; one person who has practical experience and knowledge regarding the use of chemicals in forest management; one person from the medical community; a scientist from the University of Maine System having practical experience and expertise in integrated pest management; one commercial applicator; and 2 persons appointed to represent the public. One of the members appointed to represent the public must have practical experience and knowledge of methods of sustainable management of indoor or outdoor pests. The term must be for 4 years, except that of the initial appointees, 2 serve 4-year terms, 2 serve 3-year terms, 2 serve 2-year terms and one serves a one-year term. Any vacancy must be filled by an appointment for the remainder of the unexpired term.

PRELIMINARY FISCAL IMPACT STATEMENT: *Not yet received.*